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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,472	06/28/2001	Bernard Y. Malo	702P06US-1	3302

7590 12/19/2002  
Shapiro Cohen  
P.O. Box 3440  
Station D  
Ottawa, ON K1P 6P1  
CANADA

EXAMINER

PETKOVSEK, DANIEL J

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/892,472

Applicant(s)

MALO, BERNARD Y.

Examiner

Daniel J Petkovsek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-13 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/28/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The prior art documents submitted by Applicant in the Information Disclosure Statements filed on October 18, 2001, have been considered and made of record (note attached copy of forms PTO-1449).

### *Drawings*

2. The drawings are objected to because they are informal drawings. Formal drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

3. Claim 1 is objected to because of the following informalities: a comma should be present in the claim, for example, "...in the refractive index of said segment, said heat having sufficient...". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishiki et al.

U.S.P. No. 6,456,762.

Nishiki et al. U.S.P. No. 6,456,762 teach (Figs 1A-1B, column 3 line 63 through column 4 line 41) a method for increasing the refractive index of a portion of an optical fiber comprising: applying a UV laser light source 3 through a phase mask 2 to form a Bragg grating on an optical fiber 1 while in the process generating a photo-induced refractive index increase (Fig 1A), and a second step in which the UV laser source is used in a trimming process to provide localized heat to a specified area in order to change characteristics of the optical fiber to a required value (Fig 1B), which clearly, fully meets Applicant's claimed limitations. Regarding claim 3, the UV light source would inherently be absorbed as heat into the fiber, said heat diffusing inwardly.

Regarding claim 4, the source is a laser.

### *Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiki et al.

U.S.P. No. 6,456,762.

Nishiki et al. U.S.P. No. 6,456,762 teaches the method for increasing, and subsequently decreasing the refractive indices of a fiber waveguide. Nishiki et al. '762 does not explicitly

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teach that the laser source is a CO2 laser. Regarding claim 5, it would have been obvious at the time the invention was made a person having ordinary skill in the art to use a variety of well-known laser sources for the purpose of exposing UV light to the fiber. Applicant has not provided evidence of the criticality of the problem or limitation being overcome by the use of a CO2 laser in the device.

### *Allowable Subject Matter*

9. Claims 6-13 are allowed over prior art. The relevant prior art does not teach or reasonably suggest a method (and system for using method) that alters an optical waveguide to achieve a desired signal response using the steps of: inducing an increase in the refractive index of the guide, measuring an optical signal response of the guide, heating a localized region to reduce the increase in the refractive index to match desired signal response, and repeating these steps until the desired signal response is achieved. The prior art teaches the formation of an initial increase in refractive indices of waveguide and the subsequent trimming of the waveguides for characteristic adjustment, but does not teach the measuring and testing aspects for the signal response of the claimed invention.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, with respect to the state of the art of methods for forming gratings on optical fiber waveguides using UV light sources: PTO-892 references B-G.

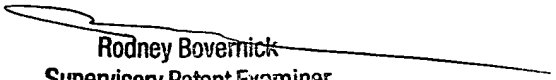
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J Petkovsek whose telephone number is (703) 305-6919. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (703) 308-4819. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9321.



Daniel Petkovsek  
December 16, 2002



Rodney Bovernick  
Supervisory Patent Examiner  
Technology Center 2800